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PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF HOME AFFAIRS

NOTIFICATIONS

New Delhi the 6th March 1970

G.S.R. 421.—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extends to the Union territory of Tripura the Orissa Preventive Detention Act, 1970 (Orissa Act 4 of 1970), as in force in the State of Orissa at the date of this notification, subject to the following modifications, namely:—

Modifications

1. Throughout the Act, for the words "State Government", wherever they occur, the word "Administrator" shall be substituted, and there shall also be made in any sentence in which those words occur such consequential amendments as the rules of grammar may require.

2. In section 1,—

(a) in sub-section (2), for the words "State of Orissa", the words "Union territory of Tripura" shall be substituted;

(b) in sub-section (4), for the words 'section 5 of the Orissa General Clauses Act, 1937 (Orissa Act 1 of 1937) shall apply upon the expiry of this Act as if it had then been repealed by an Orissa Act", the words "section 6 of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under the Tripura General Clauses Act, 1966 (Tripura Act 5 of 1966), shall apply upon the expiry of this Act as if it has then been repealed by a Tripura Act" shall be substituted.

3. For section 2, the following section shall be substituted, namely:—

"2. *Definitions.*—In this Act—

(a) "Administrator" means the Administrator of the Union territory of Tripura;

(b) "detention order" means an order made under section 3".

4. In clause (b) of section 5, for the word "State", the words "Union territory of Tripura" shall be substituted.

5. In sub-section (1) of section 6, for the words "that Government or officer", the words "the Administrator or such officer" shall be substituted.

6. In section 12, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A detention order may, at any time, be revoked or modified—

(i) where such order has been made by the Administrator, by the Administrator;

(ii) where such order has been made by an officer mentioned in sub-section (2) of section 3, by such officer or the Administrator."

7. In sub-section (1) of section 15, for the words and figures "The Orissa Preventive Detention Ordinance, 1969 (Orissa Ordinance No. 6 of 1969)", the words and figures "The Orissa Preventive Detention Ordinance, 1969 (Orissa Ordinance No. 6 of 1969), as extended to the Union territory of Tripura" shall be substituted.

ANNEXURE

The Orissa Preventive Detention Act, 1970 as Extended to the Union Territory of Tripura

(Orissa Act 4 of 1970)

An Act to provide for preventive detention in order to check certain activities such as Naxalite activities and other activities of like nature and for matters incidental thereto.

Be it enacted by the Legislature of the State of Orissa in the Twenty-first year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Orissa Preventive Detention Act, 1970.

(2) It shall extend to the whole of the Union territory of Tripura.

(3) It shall come into force at once.

(4) It shall cease to have effect on the expiry of three years from the date of its commencement except as respects things done or omitted to be done before the expiration thereof and section 6 of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under the Tripura General Clauses Act, 1966 (Tripura Act 5 of 1966), shall apply upon the expiry of this Act as if it had then been repealed by a Tripura Act.

2. *Definitions.*—In this Act—

(a) "Administrator" means the Administrator of the Union territory of Tripura;

(b) "detention order" means an order made under section 3.

3. *Power to make orders detaining certain persons.*—(1) The Administrator may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) Any District Magistrates, or any Additional District Magistrates specially empowered in this behalf by the Administrator, may if satisfied as provided in sub-section (1), exercise the power conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the Administrator together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Administrator.

4. *Execution of detention orders.*—A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898 (5 of 1898).

5. *Power to regulate place and conditions of detention.*—Every person in respect of whom a detentions order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Administrator may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention within the Union territory of Tripura by the order of the Administrator.

6. *Powers in relation to absconding persons.*—(1) If the Administrator or an officer specified in sub-section (2) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Administrator or such officer may—

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (5 of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; or

(b) by order notified in the Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), every offence under clause (b) of sub-section (1) shall be cognizable.

7. *Grounds of order of detention to be disclosed to persons affected by the order.*—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the Administrator.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

8. *Constitution of Advisory Boards.*—(1) The Administrator shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of three persons who are or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Administrator.

(3) The Administrator shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

9. *Reference to Advisory Boards.*—In every case where a detention order has been made under this Act, the Administrator shall, within thirty days from the date of detention under the order, place before the Advisory Board the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report furnished by such officer under sub-section (3) of section 3.

10. *Procedure of Advisory Boards.*—(1) The Advisory Board shall after considering the materials place before it and, after calling for such further information as it may deem necessary from the Administrator or from any person called for the purpose through the Administrator or from the person concerned, and if any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Administrator within ten weeks from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members of the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

11. *Action upon the report of Advisory Board and the maximum period of detention.*—(1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the Administrator may confirm the detention order and continue the detention of the person concerned for such period, not being beyond a period of twelve months from the date of detention, as he thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the Administrator shall revoke the detention order and cause the person to be released forthwith.

12. *Revocation of detention orders.*—(1) A detention order may, at any time, be revoked or modified—

(i) where such order has been made by the Administrator, by the Administrator;

(ii) where such order has been made by an officer mentioned in sub-section (2) of section 3, by such officer or the Administrator

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Administrator or an Officer, as the case may be, is satisfied that such an order should be made.

13. *Temporary release of persons detained.*—(1) The Administrator may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the Administrator may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(3) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

14. *Protection of actions taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

15. *Repeal and savings.*—(1) The Orissa Preventive Detention Ordinance (Orissa Ordinance No. 6 of 1969), as extended to the Union territory of Tripura, is hereby repealed.

(2) Notwithstanding such repeal—

(a) any order made, anything done, any action taken or any Advisory Board constituted under the said Ordinance shall be deemed to have been made, done, taken or constituted under this Act as if this Act had commenced on the 1st day of January, 1970;

(b) any general or special order issued under section 5 of the said Ordinance shall be deemed to have been issued under this Act and shall continue to be in force until new orders are issued under the appropriate provisions of this Act; and

(c) any person in detention under the Preventive Detention Act, 1950 (Central Act 4 of 1950), who has been detained for a further period under the said Ordinance, shall be deemed to have been detained under this Act and thereupon the provisions contained in this Act shall apply in the same manner and to the same extent as they apply in the case of detention orders made under section 3.

[No. F. 6/2/70 UTL-112.]

G.S.R. 422—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extends to the Union territory of Manipur the Orissa Preventive Detention Act, 1970 (Orissa Act 4 of 1970), as in force in the State of Orissa at the date of this notification, subject to the following modifications, namely:—

Modifications

1. Throughout the Act, for the words "State Government", wherever they occur, the word "Administrator" shall be substituted, and there shall also be made in any sentence in which those words occur such consequential amendments as the rules of grammar may require

2. In section 1,—

(a) in sub-section (2), for the words "State of Orissa", the words "Union territory of Manipur" shall be substituted;

(b) in sub-section (4) for the words "section 5 of the Orissa General Clauses Act, 1937 (Orissa Act 1 of 1937) shall apply upon the expiry of this Act as if it had then been repealed by an Orissa Act", the words "section 6 of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under the Manipur General Clauses Act, 1966 (Manipur Act 3 of 1966), shall apply upon the expiry of this Act as if it had then been repealed by a Manipur Act" shall be substituted.

3. For section 2, the following section shall be substituted, namely:—

"2. *Definitions.*—In this Act—

(a) "Administrator" means the Administrator of the Union territory of Manipur;

(b) "detention order" means an order made under section 3".

4. In clause (b) of section 5 for the word "State", the words "Union territory of Manipur" shall be substituted.

5. In sub-section (1) of section 6, for the words "that Government or officer" the words "the Administrator or such officer" shall be substituted.

6. In section 12, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A detention order may, at any time, be revoked or modified—

(i) where such order has been made by the Administrator, by the Administrator;

(ii) where such order has been made by an officer mentioned in sub-section (2) of section 3, by such officer or the Administrator."

7. In sub-section (1) of section 15, for the words and figures "The Orissa Preventive Detention Ordinance, 1969 (Orissa Ordinance No. 6 of 1969)", the words and figures "The Orissa Preventive Detention Ordinance, 1969 (Orissa Ordinance No. 6 of 1969), as extended to the Union territory of Manipur" shall be substituted.

ANNEXURE

The Orissa Preventive Detention Act, 1970 as extended to the union territory of Manipur

(Orissa Act 4 of 1970)

An Act to provide for preventive detention in order to check certain activities such as Naxalite activities and other activities of like nature and for matters incidental thereto.

Be it enacted by the Legislature of the State of Orissa in the Twenty-first year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Orissa Preventive Detention Act, 1970.

(2) It shall extend to the whole of the Union territory of Manipur.

(3) It shall come into force at once.

(4) It shall cease to have effect on the expiry of three years from the date of its commencement except as respects things done or omitted to be done before the expiration thereof and section 6 of the General Clauses Act, 1897 (Central Act 10 of 1897), as applicable under the Manipur General Clauses Act, 1966 (Manipur Act 3 of 1966), shall apply upon the expiry of this Act as if it had then been repealed by a Manipur Act.

2. *Definitions.*—In this Act—

(a) "Administrator" means the Administrator of the Union territory of Manipur;

(b) "detention order" means an order made under section 3.

3. *Power to make orders detaining certain persons.*—(1) The Administrator may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) Any District Magistrates, or any Additional District Magistrates specially empowered in this behalf by the Administrator, may if satisfied as provided in sub-section (1), exercise the power conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the Administrator together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Administrator.

4. *Execution of detention orders.*—A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898 (5 of 1898).

"5. *Power to regulate place and conditions of detention.*—Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Administrator may, by general or special order, specify; and

(b) to be removed from one place to detention to another place of detention within the Union territory of Manipur by the order of the Administrator.

6. *Powers in relation to absconding persons.*—(1) If the Administrator or an officer specified in sub-section (2) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Administrator or such officer may—

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (5 of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate; or

(b) by order notified in the Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), every offence under clause (b) of sub-section (1) shall be cognizable.

7. *Grounds of order of detention to be disclosed to persons affected by the order.*—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the Administrator.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

8. *Constitution of Advisory Boards.*—(1) The Administrator shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Administrator.

(3) The Administrator shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman.

9. *Reference to Advisory Boards.*—In every case where a detention order has been made under this Act, the Administrator shall, within thirty days from the date of detention under the order, place before the Advisory Board the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report furnished by such officer under sub-section (3) of section 3.

10. *Procedure of Advisory Boards.*—(1) The Advisory Board shall after considering the materials placed before it and, after calling for such further information as it may deem necessary from the Administrator or from any person called for the purpose through the Administrator or from the person concerned, and if any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Administrator within ten weeks from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members of the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

11. *Action upon the report of Advisory Board and the maximum period of detention.*—(1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the Administrator may confirm the detention order and continue the detention of the person concerned for such period, not being beyond a period of twelve months from the date of detention, as he thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the Administrator shall revoke the detention order and cause the person to be released forthwith.

12. *Revocation of detention orders.*—(1) A detention order may, at any time, be revoked or modified—

(i) where such order has been made by the Administrator, by the Administrator;

(ii) where such order has been made by an officer mentioned in sub-section (2) of section 3, by such officer or the Administrator.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Administrator or an Officer, as the case may be, is satisfied that such an order should be made.

13. *Temporary release of persons detained.*—(1) The Administrator may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the Administrator may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

((3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

14. *Protection of actions taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

15. *Repeal and savings.*—(1) The Orissa Preventive Detention Ordinance (Orissa Ordinance No. 6 of 1969), as extended to the Union territory of Manipur, is hereby repealed.

(2) Notwithstanding such repeal—

(a) any order made, anything done, any action taken or any Advisory Board constituted under the said Ordinance shall be deemed to have been made, done, taken or constituted under this Act as if this Act had commenced on the 1st day of January, 1970;

(b) any general or special order issued under section 5 of the said Ordinance shall be deemed to have been issued under this Act and shall continue to be in force until new orders are issued under the appropriate provisions of this Act; and

(c) any person in detention under the Preventive Detention Act, 1950 (Central Act 4 of 1950), who has been detained for a further period under the said Ordinance, shall be deemed to have been detained under this Act and thereupon the provisions contained in this Act shall apply in the same manner and to the same extent as they apply in the case of detention orders made under section 3.

[No. F. 5/1/70-UTL-113.]

K. R. PRABHU, Jt. Secy.

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